REMARKS

The Office Action of December 18, 2007 presents the examination of claims 1-7 and 19, claims 8-18, 22-25 and 27-30 being withdrawn from consideration following restriction of the claims.

Amendments to the Claims

All of the previously pending claims are canceled, and new claims 31-35 are submitted for examination. This method of amendment was chosen for its editorial simplicity.

New claims 31-35 find support in the originally filed claims 3-7.

Rejection under 35 USC § 112, first paragraph

Claims 1-7 and 19 stand rejected under 35 USC § 112, first paragraph for alleged failure of the specification to provide enabling disclosure of the invention. The Examiner particularly alleges that use of the invention is not enabled.

The Examiner asserts that the "use of the peptides is as cancer vaccines." The Examiner alleges that such use is not enabled, citing articles that generally describe various failures of such vaccines or provide "sound bites" of opinions of various practitioners in the field that such vaccines are inoperable. Notwithstanding that none of the cited references relate particularly to the present invention, Applicants further note that the newest one cited is from 1999, more than four years prior to the priority date of the instant application. Since the references cited by the Examiner are in the first instance only of a general nature, and not particular to the present invention, and second rather old and so not reflective of the state of the art at the time the invention was made, Applicants submit that the Examiner fails to establish *prima facie* lack of enablement of the claimed invention.

Furthermore, the present claims are directed to peptides *per se*. Such peptides have a diagnostic utility in addition to a pharmaceutical/therapeutic utility. The Examiner is directed to page 35, line 24, where the specification indicates that an antibody against the protein represented in part by SEQ ID NOs: 6 – 9 has a diagnostic utility, and to page 23, lines 15-17,

where the peptides of the invention are described as useful for raising antibodies having such diagnostic utility.

Applicants submit that the details of making antibodies against peptides and use of anti-peptide antibodies in a diagnostic method were well-established at the time the instant application was filed, as is asserted in the specification. Accordingly, the rejection of claims 1-7 and 19 under 35 USC § 112, first paragraph, as lacking enablement by the specification should not be applied to the present claims.

Rejection under 35 USC § 102

Claims 1, 2, 7 and 19 are rejected under 35 USC § 102(e) as being anticipated by Straten US 2007/0036811. The rejected claims are all canceled, rendering this rejection moot. Applicants submit that this rejection should not be applied to the present claims.

In particular, the Examiner asserts the rejection only insofar as the claims encompass SEQ ID NO: 2 of the present application. The present claims recite SEQ ID NOs: 6 - 9 as their subject matter, and therefore the Examiner's stated grounds for rejection is not present.

Applicants submit that the present application well-describes and claims subject matter that is free of the prior art. The favorable actions of withdrawal of the standing rejections and allowance of the pending claims are requested.

Should there be any minor matter precluding allowance of the application that can be addressed by a telephone conversation, the Examiner is requested to contact the undersigned, at the telephone number given below, to discuss the matter.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By _____

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